THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 43 of 2005

1. Union of India through Defence Secretary, New Delhi.
2. Administrative commandant, Station Head Quarter, Banbasa, District Champawat.

… Appellants.

Vs.

Narayan Singh Mehta, S/O Sh. Kushal Singh Mehta,
R/o village and Post Office Chandani, Banbassa, District Champawat.

…Respondent.

Sri Arvind Vashist, learned Asstt. Solicitor General (Govt. of India) for the appellants.
Sri. B.S.Khanka, learned Counsel for the respondent.

Coram : Hon'ble P.C.Verma, J.
Hon'ble B.S.Verma, J.

Date July 13, 2006

This Special Appeal has been preferred by the Union of India against the judgment and order dated 28-6-2005 passed by the learned Single Judge in Civil Writ Petition No. 284 of 2004 (S/S) Narayan Singh Mehta V. Union of India and others, whereby the learned Single Judge held that the termination of services of the petitioner Narayan Singh Mehta was illegal and accordingly set aside the order under challenge dated 6.6.2003 passed by Lt.Col. P.P.Sharma, Adm. Condt. Station Head Quarter, Banbassa.

Relevant facts necessary for a just decision of this appeal are that respondent Narayan Singh was appointed as Mess Waiter on 9-8-1999 at the salary of Rs. 1,200/- per month. His appointment letter was issued by the respondent no.5 in his official capacity and considering his satisfactory work, he was promoted as Mess Incharge, Station Officers Mess w.e.f. 1.2.2000 on the pay scale of Rs. 1,500/- per month bearing increment of Rs. 50/- per annum. However, instead of regularizing the services of the respondent Narayan Singh, he was served with a show cause notice levelling certain charges and ultimately his services were terminated vide order dated 6.6.2003 passed by the respondent

no.4. Aggrieved, the said Narayan Singh Mehta preferred writ petition before this Court, which was registered as Civil Writ Petition No. 284 of 2004. It is pertinent to mentnion that the petitioner was asked to submit his reply by 1.6.2003 to show cause as to why his services be not terminated.

Before the learned Single Judge, the counter affidavit was filed by the respondent no.5 wherein it was asserted that an enquiry was conducted by the Administrative Commandant and on enquiry the charges levelled against the petitioner Narayan Singh were found to be proved, but the respondents in that writ petition could bring on record which could indicate that any enquiry was, in fact, conduct in accordance with law before passing the order of termination of service against the petitioner, the learned Single Judge relying upon the verdict of the Apex Court in the case of ***"Kamal Kishor Laxman V. Pan American World Airways Inc." [(1987) 1 SCC, Page 146]*** wherein the meaning of 'stigma" was explained and also relying upon the law laid down by the Apex Court in the case of ***Bishan Lal Gupta Vs. State of Haryana (1978) 1 SCC, page 202,*** wherein it was observed that "if the order contained a stigma, the termination would be bad for the individual concerned must suffer a substantial loss of reputation, which may affect as future prospects" ultimately came to the conclusion that the language of the order impugned clearly pointed out that the instance referred to therein were not mere allegations against the petitioner and allowed the writ petition by setting aside the order of termination of service of the petitioner Narayan Singh Mehta, which gave rise to the present special appeal.

We have heard submissions of the learned Assistant Solicitor General appearing on behalf of the Union of India-appellants as well as learned counsel for the respondent and carefully perused the entire material on record including the impugned judgment and order.

The impugned order has been assailed mainly on the ground that the finding of the learned Single Judge and sufficient opportunity was not given to the respondent Narayan Singh to defend his case is against the evidence on record. It was also contended that it was the petitioner himself that he did not file any reply and refrained from participating in the departmental enquiry.

The stand taken by the appellants in the present appeal is not at all based on the sound footing. We have narrated the facts above. The order under challenge was set aside by the learned Single Judge mainly on the ground that the charges levelled against the petitioner Narayan Singh connoted to ***"stigma"*** as held by the Apex Court in the case of ***Kamal Kishore Laxman (supra)*** and ***Bishan Lal Gupta (supra)***. We have gone through the material on record in the light of the contentions raised in the memo of appeal, but we are not inclined to find favour with the appellant, as the appellants have miserably failed to bring on record the evidence regarding conducting of enquiry, etc. either before the learned Single Judge or before this Court. The learned Single Judge has dealt with on each issue elaborately. Nothing has been shown by the learned Assistant Solicitor General to interfere with the findings arrived at by the learned Single Judge.

The appeal is devoid of merit and must fail.

The appeal is dismissed with no order as to costs. The judgment and order under challenged is upheld.

(B.S.Verma,J.) **(P.C.Verma, J.)**

RCP